

HB4379



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB4379

by Rep. Christian L. Mitchell

SYNOPSIS AS INTRODUCED:

720 ILCS 5/16-25

Amends the Criminal Code of 2012. Increases the threshold amounts for enhanced penalties for retail theft (from over \$300 to over \$500).

LRB098 17451 JLK 52554 b

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by changing
5 Section 16-25 as follows:

6 (720 ILCS 5/16-25)

7 Sec. 16-25. Retail theft.

8 (a) A person commits retail theft when he or she knowingly:

9 (1) Takes possession of, carries away, transfers or
10 causes to be carried away or transferred any merchandise
11 displayed, held, stored or offered for sale in a retail
12 mercantile establishment with the intention of retaining
13 such merchandise or with the intention of depriving the
14 merchant permanently of the possession, use or benefit of
15 such merchandise without paying the full retail value of
16 such merchandise; or

17 (2) Alters, transfers, or removes any label, price tag,
18 marking, indicia of value or any other markings which aid
19 in determining value affixed to any merchandise displayed,
20 held, stored or offered for sale in a retail mercantile
21 establishment and attempts to purchase such merchandise at
22 less than the full retail value with the intention of
23 depriving the merchant of the full retail value of such

1 merchandise; or

2 (3) Transfers any merchandise displayed, held, stored
3 or offered for sale in a retail mercantile establishment
4 from the container in or on which such merchandise is
5 displayed to any other container with the intention of
6 depriving the merchant of the full retail value of such
7 merchandise; or

8 (4) Under-rings with the intention of depriving the
9 merchant of the full retail value of the merchandise; or

10 (5) Removes a shopping cart from the premises of a
11 retail mercantile establishment without the consent of the
12 merchant given at the time of such removal with the
13 intention of depriving the merchant permanently of the
14 possession, use or benefit of such cart; or

15 (6) Represents to a merchant that he, she, or another
16 is the lawful owner of property, knowing that such
17 representation is false, and conveys or attempts to convey
18 that property to a merchant who is the owner of the
19 property in exchange for money, merchandise credit or other
20 property of the merchant; or

21 (7) Uses or possesses any theft detection shielding
22 device or theft detection device remover with the intention
23 of using such device to deprive the merchant permanently of
24 the possession, use or benefit of any merchandise
25 displayed, held, stored or offered for sale in a retail
26 mercantile establishment without paying the full retail

1 value of such merchandise; or

2 (8) Obtains or exerts unauthorized control over
3 property of the owner and thereby intends to deprive the
4 owner permanently of the use or benefit of the property
5 when a lessee of the personal property of another fails to
6 return it to the owner, or if the lessee fails to pay the
7 full retail value of such property to the lessor in
8 satisfaction of any contractual provision requiring such,
9 within 10 days after written demand from the owner for its
10 return. A notice in writing, given after the expiration of
11 the leasing agreement, by registered mail, to the lessee at
12 the address given by the lessee and shown on the leasing
13 agreement shall constitute proper demand.

14 (b) Theft by emergency exit. A person commits theft by
15 emergency exit when he or she commits a retail theft as defined
16 in subdivisions (a)(1) through (a)(8) of this Section and to
17 facilitate the theft he or she leaves the retail mercantile
18 establishment by use of a designated emergency exit.

19 (c) Permissive inference. If any person:

20 (1) conceals upon his or her person or among his or her
21 belongings unpurchased merchandise displayed, held, stored
22 or offered for sale in a retail mercantile establishment;
23 and

24 (2) removes that merchandise beyond the last known
25 station for receiving payments for that merchandise in that
26 retail mercantile establishment,

1 then the trier of fact may infer that the person possessed,
2 carried away or transferred such merchandise with the intention
3 of retaining it or with the intention of depriving the merchant
4 permanently of the possession, use or benefit of such
5 merchandise without paying the full retail value of such
6 merchandise.

7 To "conceal" merchandise means that, although there may be
8 some notice of its presence, that merchandise is not visible
9 through ordinary observation.

10 (d) Venue. Multiple thefts committed by the same person as
11 part of a continuing course of conduct in different
12 jurisdictions that have been aggregated in one jurisdiction may
13 be prosecuted in any jurisdiction in which one or more of the
14 thefts occurred.

15 (e) For the purposes of this Section, "theft detection
16 shielding device" means any laminated or coated bag or device
17 designed and intended to shield merchandise from detection by
18 an electronic or magnetic theft alarm sensor.

19 (f) Sentence.

20 (1) A violation of any of subdivisions (a)(1) through
21 (a)(6) and (a)(8) of this Section, the full retail value of
22 which does not exceed \$500 ~~\$300~~ for property other than
23 motor fuel or \$150 for motor fuel, is a Class A
24 misdemeanor. A violation of subdivision (a)(7) of this
25 Section is a Class A misdemeanor for a first offense and a
26 Class 4 felony for a second or subsequent offense. Theft by

1 emergency exit of property, the full retail value of which
2 does not exceed \$500 ~~\$300~~, is a Class 4 felony.

3 (2) A person who has been convicted of retail theft of
4 property under any of subdivisions (a)(1) through (a)(6)
5 and (a)(8) of this Section, the full retail value of which
6 does not exceed \$500 ~~\$300~~ for property other than motor
7 fuel or \$150 for motor fuel, and who has 2 or more prior
8 convictions ~~been previously convicted~~ of any type of theft,
9 robbery, armed robbery, burglary, residential burglary,
10 possession of burglary tools, home invasion, unlawful use
11 of a credit card, or forgery is guilty of a Class 4 felony.
12 A person who has been convicted of theft by emergency exit
13 of property, the full retail value of which does not exceed
14 \$500 ~~\$300~~, and who has 2 or more prior convictions ~~been~~
15 ~~previously convicted~~ of any type of theft, robbery, armed
16 robbery, burglary, residential burglary, possession of
17 burglary tools, home invasion, unlawful use of a credit
18 card, or forgery is guilty of a Class 3 felony.

19 (3) Any retail theft of property under any of
20 subdivisions (a)(1) through (a)(6) and (a)(8) of this
21 Section, the full retail value of which exceeds \$500 ~~\$300~~
22 for property other than motor fuel or \$150 for motor fuel
23 in a single transaction, or in separate transactions
24 committed by the same person as part of a continuing course
25 of conduct from one or more mercantile establishments over
26 a period of one year, is a Class 3 felony. Theft by

1 emergency exit of property, the full retail value of which
2 exceeds \$500 ~~\$300~~ in a single transaction, or in separate
3 transactions committed by the same person as part of a
4 continuing course of conduct from one or more mercantile
5 establishments over a period of one year, is a Class 2
6 felony. When a charge of retail theft of property or theft
7 by emergency exit of property, the full value of which
8 exceeds \$500 ~~\$300~~, is brought, the value of the property
9 involved is an element of the offense to be resolved by the
10 trier of fact as either exceeding or not exceeding \$500
11 ~~\$300~~.

12 (Source: P.A. 97-597, eff. 1-1-12.)